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[For the role of the marabouts as arbitrators in the settling of disputes between tribal groups, see Categories 619 and 792.]

*613 554 69 [671] [178] on paper in triplicate, one copy going to each litigant and a third copy to the chief of police of the Marsa Matruh sector. In practice, though, a copy usually goes to the litigants, but not to the chief of police (who had not a single Bedouin court case in his files).

*613 • 695 692 [671] As is not the case in Islamic law, in Bedouin customary law the decision of the judge may be appealed. The system of appeals may even function at the level of familial authority, i.e., the son may, in theory, appeal a ruling by his own father. The Bedouins insist that this is an important right of every man. In the situation where a man wishes to appeal a decision of his own 'aqila, he will generally take his claim to another 'aqila of his secondary group. When an appeal is to be made, it is done with the permission of the 'aqila who rendered the original decision. The one who appeals his case does so with the understanding that the decision returned by the court of appeal will be final and binding. Further, if [681] the court of appeal concurs with the findings of the original court, the plaintiff pays a double fine (twice the original fine), and also pays his own 'aqila an expiation fee (kubaara).

69 648 [682] [685] The Egyptians have preferred to leave the Bedouins of al-Qasr to settle their own disputes except in the more serious criminal matters. Police from Matruh will enter homicide cases and those conflicts over property rights which threaten to explode into tribal warfare. But these types of conflict have

554 1952:165), and the role rajal khair along with the other roles
627 concerned with political action, the 'aqila, shaikh, and 'umda,
692 represent political organization in al-Qasr. Although the role of rajal khair is not institutionalized to the same degree that the others are, we shall see in the next chapter that it is an important one for an understanding of power relations in al-Qasr. All of these roles carry with them some type of right to make binding decisions in matters regarding conflict regulation. That is, an individual should take his
* [613] claims to the 'aqila, but may take them to any of the other political specialists. In any of the cases, the litigants concerned become bound by the decision of the third party.
* [613] But only at the hand of the 'aqila can a decision be made
• [695] which will effect a whole group, i.e., only an 'aqila can
[682] give judgment against a corporation for the blood-money in a case of homicide (Schacht 1953:328).

691 If, however, blood-money is not an immediate concern,
692 the litigants may utilize any and all of the political roles
* 613 available in the judicial system. A statement from one of my
554 informants, an 'aqila, is useful here.
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> The bait is made up of thirty or fourty men, and there is one most important man (rajal kabiir), the 'aqila. The 'aqila puts an end to problems, he sees who deserves this and who deserves that. Problems must be settled. It happened five or six years ago that I and my paternal cousins quarreled over land at Wadi Raml. I went to the police station and complained to the shaikh of the 'Aishaibat. I asked him to choose a person to judge

691 between me and my cousins, according to Bedouin law
692 (yinafth al-'awaiyid bainaana). I went to the shaikh
*613 because my cousins did not agree that we go to the
554 'aqila right away. We agreed that the shaikh would
629 choose the third party, and the judgment would be binding on both of us. The shaikh chose Bu Halaiqa as the third party, and Bu Halaiqa chose three others as consultants. (Two of the three were rajal khair, and the other was an 'aqila.) The judgment was that my cousins were in the wrong. They were fined 10 L.E. and a dhabiiha("blood sacrifice"). 'Ali intervened and did not allow my cousins to pay the fine. He had them write a paper stating, that if they resume this quarrel in the future they must pay the fine plus another 10 L.E. fine. (Hajj 'Ali is a rajal khair.)

*695 Sometimes the Egyptian police must be brought into a judicial
648 affair to insure the execution of a judgment. In one case,
696 an individual in al-Qasr did not accept the decision of his 'aqila; his 'aqila wrote the decision on paper and sent him to another 'aqila. The second 'aqila agreed with the first, but the man also refused this decision. The second 'aqila wrote his decision on paper and sent it to the shaikh of the 'Aishaibat in Matruh. The shaikh summoned the culprit and sent him to the police station. Finally, the police were able to convince the man to pay his fine, and also his expiation fee to his own 'aqila. My informant said that this was a minor affair, and that had it been a serious offense committed by the man he would have been threatened with expulsion from the corporate group.

*613 As the corporate sole, the 'aqila has political authority
554 which is legitimate and morally binding on all who wish to
571 maintain their status in the group and tribe. Any individual

*613 cases of homicide and one case of wounding) one was at the
578 tribal level; three at the primary level; three at the
619 secondary level; and two at the tertiary level. Of the
681 thirteen cases dealing with property rights over land, water, or women, none took place at the tribal level; four were at the primary level; seven at the secondary level; and one at the tertiary level. One case dealing with marriage rights took place within a tertiary segment and concerned the legitimacy of a man to claim his bint 'amm. Twelve of the twenty-two cases occurred within the 'Aishabat tribe. Of the ten cases of conflict involving units from outside the 'Aishaibat, six cases were between primary units, three cases were between secondary units, and one case involved the 'Ali Ahmar with the Harabi of Libya.

In almost every case involving primary units and tribal units, the two opposing authority groups were actually secondary groups who had the backing of their primary groupings. The case in which the 'Ali Ahmar mobilized to deal with a problem in Libya probably represents an atypical case in history. It is unlikely that tribal groups of this size
[648] could mobilize in time of war or peace, and in this particular case the good international relations of Egypt and Libya were at stake.

784 There is another realm of sanctions which can be in-
• 695 voked in cases concerning homicide, wounding, theft, and
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681 property disputes, and I shall briefly discuss this before
695 I proceed to describe Bedouin legal processes. Besides the
784 threat of blood-revenge and fines of money, the individual, or group, who violates the moral and legal norms of Bedouin society may be faced with sanctions of a sacred nature. In
695 any case where clear evidence is lacking, one litigant may request that that other party swear the oath (yamiin Allah)
+613 in support of his claim. In all three corporate charters
695 presented earlier in this chapter, those of 'Ailit Ma'fas,
695 'Ailit Lazumi, and 'Ailit Abu Qarasa, support of lineage-mates through the oath was a condition of group membership.
[692] Collective responsibility not only applies in the case of secular things, i.e., sharing the blood-money and the exercise of blood-revenge, but also where the possible curse of God is concerned.

695 When one party to conflict requests that the oath be administered as a means of settling a dispute, the other party will always accept because it is assumed that in this way both litigants "will get their rights." The party taking
695 the oath must be supported by a number of his relatives
602 ('umraa al-dam) who are willing to risk the consequences, and
+613 who are chosen by the other party. If a man is unable to muster the required number of kinsmen to take the oath, and the number is always relative to the seriousness of the offense of which he is accused, then this is taken as a sign of his untruthfulness and he loses his claim.

695 untruthfulness and he loses his claim. According to the
602 'awaiyid, the number of supporters required in a homicide or
613 wounding case is fifty; in a case involving the rightful
671 ownership of land or a well the required number is twenty-five; in a case of conflicting claims over a camel, five relatives must swear in support of the claimant; and in matters concerning smaller animals, such as sheep, the number of supporters will depend upon the number and price of the animals. But, of course, the number of supporters will always be relative to the size of the groups involved, and so the 'awaiyid is not always followed to the letter of the law.

695 The time and place of the oath is fixed by the 'awaaqil
[692] adjudicating the given case. It is administered either at the tomb of a "holy man," or at the mosque in Marsa Matruh, and always on a Friday, the Muslim Sabbath. There is a standard text to the oath and this is given in the instructions of the
695 'awaaqil to the litigants. The Bedouins, with few exceptions,
784 believe in the effectiveness of the oath of God. The rationale is that no man is willing to lie and suffer the wrath of God. The curse which results from a "bad oath" usually takes the form of an accident or misfortune to the swearer or a member of his family. The Bedouins believe that divine sanction operates not only against the one who makes a bad oath, but also against the one who bears false witness against another and causes him to take the oath.

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The following excerpt from my field notes concerning Bedouin law will show the earnestness with which informants upheld the function of the oath as a legal sanction.

> I know that you want to find out whether or not the oath will prove the guilt or innocence of a person. Well, it will. First of all, if a man is known to be a liar, those of his relatives who are supposed to support him will refuse to swear the oath. And, if they do take the oath and know that the person is lying, then definitely something bad will happen to both him and them. I will give you a case which will prove what I say. Years ago, there was a quarrel between an 'aiela of Awlad Kharuf ('Ali Abyad) and 'Ailit Abu Qarasa of the 'Aishaibat over the rightful ownership of a Roman well in the desert. The well originally belonged to our family (i.e. 'Ailit Abu Qarasa). The Abu Qarasa requested that the oath be used to settle the matter, and that twenty-five of the Awlad Kharuf swear that the well belonged to them. They swore the oath and the case was finished: the well went to the Awlad Kharuf. The Abu Qarasa could say nothing more since the oath had been taken. But listen to this: within one month's time of taking the oath, seven of the twenty-five Awlad Kharuf swearers were buried. At the present time, only three of the original swearers are still living. One of these three begot only girls, and when these girls married all of their marriages ended in divorce. Another of the three survivors has a son who lost an eye and an arm in an accident. And the third man, he has not married yet. Some of these men who died were very young at the age of death. You see, if I steal 10 L.E. and swear that I did not, then God will punish me ten-fold. God's punishment may strike my animals, my family, or my money; God will take his vengeance through these three means. You should always remember that the life of one man is worth one-hundred wells.

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The man who swears the oath places himself and his group in ritual danger. The above description of the oath and its possible consequences show that the Bedouins believe divine punishment can work indirectly. One case-study presented

695 below will show how a "bad oath" can work directly on the
784 false witness.

784 Divine sanctions enter into other aspects of the
626 Bedouin judicial process and function to maintain social
626 control in al-Qasr. If we can speak of a standard, or
681 minimal sanction, in Bedouin law it would be the dhabiiha and 10 L.E. In any case, however small the offence might be, the litigant found to be in the wrong will have this judgment made against him. But in almost every case "the [783] party who takes his rights" will refuse the dhabiiha and [292] 10 L.E. and insist instead upon a ritual three cups of tea. An individual refuses the dhabiiha as an act of brotherhood and thanksgiving that the quarrel has been settled. The Bedouins point out the practical factor that very few men in al-Qasr can afford to part with even one lamb. On the
626 other hand, in more serious cases, such as homicide, which
681 occur in the external sphere of political relations and
682 threaten to disintegrate the political community, the parties
264 involved will actually eat a whole meal together. In this case, the dhabiiha is accepted, for the act of commensality is deemed necessary for reconciliation.

626 But whether or not conflict is concluded by a simple
182 ritual or a large feast, the prevailing mood is one of
771 gratitude that the secular bonds of brotherhood and a pre-ordained sacred order have been maintained. The Bedouin

121 external system, however, the law recognizes retaliation, a
681 life for a life. Still, even in this case, Bedouin values
682 expressed through the 'awaiyid try to avert bloodshed and
[182] feuding by showing "the good path" and providing the means
[671] for settlement through compensation.

Just as the Bedouin accepts the 'awaiyid as a set of
681 of ideals calculated to regulate conflict, he paradoxically
682 claims the right to impose retaliatory sanctions as a just
182 conclusion to conflict. One Bedouin said that the greatest
[671] sin which a man or group can commit is to accept the diiya
[673] and then take his blood-revenge and return the money. Presumably, a person or group commits no outrage if they refuse the diiya with the understanding that blood-revenge will be
[626] taken. In al-Qasr, retaliation and the 'awaiyid are mechanisms
[671] of social control and dispute settlement. A political office
* [613] exists, i.e. the 'aqila which functions over the total range
[692] of political action, and the process of adjudication and compensation in the form of indemnity payment represents an institutionalized alternative to retaliation. In all cases of dispute, ritual or religious sanctions back up social
[776] sanctions. God is a third party to all conflict, and this is
• [695] made manifest in the reading of the Fatiha or the oath-taking
128 ceremony. In order to describe how authority and sanctions
68 operate in Bedouin society, a number of examples are presented
[124 below. Some of the cases are the statements of informants about
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Date: 24 January 1946
Marsa Matruh

1st Party: 'Awaqil of so-called Harun Abd al-Zain of al-Kamailat

2nd Party: 'Awaqil of so-called Hamad Idris of al-'Aishaibat

Both parties, the first and the second, met before the 'awaaqil and witnesses to solve the prevailing problem between them concerning the wounding of so-called Harun Abd al-Zain who claims that this wound is from Hamad Idris. In the presence of the 'awaaqil all agreed that Hamad Idris should swear the oath and be supported by the below named. And the text of the oath which they will say, is: "By the truth (i.e. haqq, which also refers to a divine attribute) of the owner of this shrine, I swear that this bullet which hurt Harun is neither from me nor do I know who shot the bullet at the time of his injury." And a number of sixteen men must support him at the shrine of Sidi Yunis al-Jaraira on the date of Friday, the 29th of Saffar, 1946. And if any does not present himself for the oath, then the wounds which are present in Harun Abd al-Zain will be from the 'Aishaibat tribe. And if all swear this oath, the two parties will be even with each other. After this, none of them will hold anything against the other. This was issued in the presence of all of their 'awaaqil and with their satisfaction without any force or ill-will.

(On the original document is presented a list of the sixteen men from the lineage of Ma'fas of the 'Aishaibat who were chosen by the Kamailat to support Hamad Idris in the Oath.)

All of the seventeen above mentioned (including Hamad Idris) must be present at the shrine of Sidi Yunis al-Jaraira on the day Friday, 29 Saffar, in order to swear the oath, and this is what took place at the hand of witnesses, and God is the best witness.

Signatures or seals of all 'awaaqil who were present.

Day of the Oath:

It is on the day Friday, the last of the blessed month of Saffar, 1946. The 'Ailit Ma'fas of al-'Aishaibat, and with them 'Ailit al-Mahatha of al-Kamailat, came in order to swear the oath at the shrine of Shaikh Yunis al-Jaraira. And they swore this oath and the Kamailat became reconciled

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that they had received their rights in this case. And the two parties are satisfied by this according to the witnesses present.

Signatures or seals of four witnesses.

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The next case represents the only time in the memory of informants that all of the 'awaaqil of the 'Ali Ahmar met to intervene in a case of conflict. This case is extremely unusual because it may be the only time in Awlad 'Ali history that political mobilization of this scale has taken place. As noted, political action, in war or peace, usually involves only secondary segments. In view of this, the case probably

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reflects an instance of social change: the Egyptian government, anxious to maintain good relations with Libya, encouraged and facilitated the settlement of this dispute by furnishing transportation and cutting administrative red tape so that the 'awaaqil of the 'Ali Ahmar could handle this case in a most expeditious way. Here is a case where Bedouin traditional

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political structures function adequately in the modern situation. Note here also that, in certain circumstances, the diiya payment can be divided symbolically and specifically to place guilt and to indicate the seriousness of a crime.

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Date: 1963. Case: Quarrel between the tribe of 'Ali Ahmar (Egypt) and the Harabi (Libya) concerning murder. A young boy of 'Ailit X was visiting his sister in Libya. He learned

423 long time ago. This seems to be supported by the evidence
*613 shown below, for often conflict over land and water rights is
182 represented by litigation between individuals and not groups.
(691)

I have arbitrarily assigned to the classification of
422 property rights the rights over women. I have done this
562 because a man acquires such rights as a member of a lineage
*613 jural group and secures them with the backing of public opinion and the 'awaiyid. Also, though a man in al-Qasr does not "own" his wife, he does have the legal rights to certain things related to her: he has the right to her sexual favors, and the right to claim her offspring for his own lineage.

685 Settlement in cases dealing with the infringement of
•695 property rights, if they do not lead to personal injury cases, will usually be concluded by arbitration or oath-taking, either of which brings the two parties into agreement.

691 Date: 1964. Case: Quarrel between Bait 'Umran and Bait Idris
685 of 'Ailit Ma'fas over the ownership of a well. The 'awaaqil
*613 sent for the two parties involved, and they met on Wednesday,
578 market day. And the 'awaaqil told the two parties: "This is
692 a shame ('aib), you must be friends because you are from the same tribe." The 'awaaqil knew "from past history and from truthful elders" that the well belonged to 'Ait Idris. The 'awaaqil made 'Ait 'Umran change their minds about their claim
(695) to the well. Before the litigation 'Ait 'Umran had insisted

691 that 'Ait Idris take the oath as proof that the well was
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*613 owned by them. Upon the decision of the 'awaaqil, however,
578 'Ait 'Umran refused to allow 'Ait Idris to swear the oath
692 "because we are all one family." This means, as one 'aqila
•695 actually stated at the conclusion of the case, that " 'Ait
Idris is indebted to 'Ait 'Umran."

423 The following two cases which occur in the external
675 system of political relations, one within the 'Aishaibat
*613 territory and the other dealing with land rights in the
territory between two primary authority groups, indicate the
formal aspect of Bedouin adjudication in establishing contracts.

[539] Date: 12 August 1963. A Contract of Agreement on Land Rights.
Agreement and satisfaction took place between Hussain Karim al-Dawlat of al-'Aishaibat and Khalid Idris al-Ma'fas of al-'Aishaibat, the first and second party. And the reason for this agreement is that each of the two parties own cultivable land at Ras Wadi Madwar. The two parties wish to make a dividing line between this linear piece of land and to declare the borders. The two parties agreed on the following: first, the beginning of the border extends from the eastern side at south Ras Raqabit al-Shumar to the western side at Hatiyid and is shown by stone markers; secondly, this line should be established from the east to the west, and this is a dividing line between the two parties and was executed by them and with their satisfaction; thirdly, whoever rejects or modifies this line will be responsible in front of law and the 'awaiyid Awlad 'Ali; each party is responsible for his children and relatives as to their actions regarding this line which is the subject of the agreement; fifthly, this contract of agreement which defines the borders between the two parties was issued in two copies, a copy to each party to use when it is needed.

Signatures or seals of seven men.

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Date: 12 October 1954. There came to us (i.e. the 'awaqil) on this day, Khalid Idris of al-'Aishaibat and Yunis Abd al-Nabi of al-Kamailat. The reason for their coming is a quarrel over land rights at Wadi al-Hijnaiya. And we put distinct markers between the land of the two parties, the first, Khalid Idris, and the second, Yunis Abd al-Nabi. And the boundary passes by the distinct markers; the first is the wadi marker, the second to the sea and beside the tree, and the final marker we put east of Halima well. This is a decision between the two parties in the presence of the following witnesses:

Signatures or seals of five men.

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The case given below indicates, by the use of two documents, the process of conflict settlement involving two secondary segments of al-Qasr, one Sa'adi and one Marabit.

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'Ailit al-Sulwatiyya, though genealogically not members of the Awlad 'Ali and holders of a client or vassal status in traditional times, are within the jurisdiction of the 'awaiyid Awlad 'Ali. They claim their rights under it by virtue of the fact of their residence in al-Qasr. The power of ritual sanction is clearly illustrated by this case.

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Date: 30 July 1964, Marsa Matruh. First Party: Shaikh Khalid Za'aluk al-Sulwatiyya and four relatives. Second Party: Khalid Idris of 'Ailit Ma'fas and three relatives. They are present. The cause of these two parties coming together is a quarrel over a well named Halima. Since the choice to swear the oath has been made by the two parties, Khalid Idris, the second party, will swear the oath supported by twenty-four members of his 'umraa al-dam ("blood group") to

423 578 685 691 619 695 [539] be chosen by Shaikh Khalid Za'aluk, the first party. The text of the oath which Khalid Idris will swear is: "By the truth of the owner of this tomb (maqaam), and this book of God, I swear that you (i.e. the 'Ailit Sulwatiyya represented by Shaikh Khalid Za'aluk) have neither work of hand nor a grandfather's stake in this well." If any of the oath-takers are missing on the day of the oath, the well will be owned Khalid Za'aluk. And if they swear the oath, the well will be owned by 'Ailit Ma'fas.

The date of the oath will be the first Friday of month nine, [778] 1964. The oath will be taken at the shrine of Sidi 'Awam, and the swearing will deal with the well only. For the land which is west of the well belongs to Khalid Za'aluk and his family, and the land to the east of the well belongs to Khalid Idris and his family. And the water which is west of the well belongs to Khalid Za'aluk. The two parties agreed to this. (Each party, and five witnesses, i.e. rajal khair, for each party, signed the document.)

423 619 578 691 [695] Date: 30 July 1964 I, Khalid Za'aluk, have decided to cancel the oath which was supposed to have been sworn on 9 September 1964 at the shrine of Sidi Awam. Khalid Idris and the oath-takers were present and were stopped from taking the oath. And the well named al-Halima which was the cause of the quarrel

said: "I did not take anything." The 'awaaqil of both parties met and told the accused: "If you have anything give it to us; if you do not have anything then swear the oath to this fact." Members of 'Ailit Ma'fas said that the boy was innocent and told the 'awaaqil that the boy should have his rights according to the 'awaiyid (i.e. he should be allowed to swear the oath to establish his innocence). The boy accused of the theft, his father, and two other members of 'Ailit Ma'fas selected by the accusers swore the oath and the problem was over. Two months later, the accuser from the Kamailat lost his eye in an accident, because swearing the oath has consequences for both parties. A bad oath will work against the one who makes it; there will be a curse upon him, his children, and his money. And the bad effects of an oath will also work against the one who falsely accuses another making him swear the oath.

The final two cases deal with marriage rights. The first illustrates a number of things which I have touched on in the previous discussion of marriage: that a man may choose to ignore the jural structures of the lineage group where the desires of his offspring are concerned; that the female is not the totally subjugated person which one might expect to find in the strongly patrilineal Bedouin society; and that the role of "holy man" functions in the marital area of authority relations.

554 It is interesting to note that Hajj 'Ali is one of the most
[571] powerful members of the "status group" in al-Qasr. He is
[178] also a leading proponent of social change and a critic of the old way of life which includes belief in magic. One can
[792] see how 'Amm Salih's influence and status might work in other areas of social action.

554 Although it is conceivable that a rajal salih can
792 be asked to intervene in any type of conflict, it is more
627 likely that he will preside at cases involving marriage and
• [695] divorce. The rajal saalih may also be asked to serve as a
[691] witness or consultant in litigation cases. The Bedouins
* [613] point out that the "holy man," like the rajal khair, is apt
[829] to be more trustworthy than the formal authority, the 'aqila.

> Sanusi is a good man and the people should listen to him. He is a rajal khair, a rajal saalih, not an 'aqila. He is better than an 'aqila--he is our brother. He is much better than the 'umda because he never changes the truth. The 'umda may go and accuse me wrongly to the government but Sanusi would never do this.

554 It is, of course, difficult to decide whether Sanusi's
792 charisma stems from the fact that he is a rajal salih, or the facts of his wealth and family. Most probably it is a little of both, the sacred as well as the secular. 'Amm Salih, on the other hand, is neither wealthy nor from a particularly prestigious family by economic standards of al-Qasr: he derives his influence and status from the sacred aspects of

156 the group--in effect questions a great deal about the whole
159 traditional authority structure. Blood-revenge functions as
554 a deterrent to social disorder in that it represents an
829 automatic mechanism for restoring a balance of good relations
682 in the society. Actually, Hajj 'Ali exaggerated to make a
[182] point when he spoke of the existence of "unbalanced people."
682 A person would indeed be "unbalanced" who did not take into
672 consideration the repercussions of his acts with respect to
* 613 the personal danger and the dishonor and shame it would bring
to his 'aiela and bait. Although the 'aiela members are
willing to share in the blood money for accidental or unpre-
meditated killings, it is wrong to suppose that the Bedouins
do not attempt to weigh the justifiability and culpability
[671] in matters of killing. The very existence of the 'awaiyid
Awlad 'Ali argues against this. Obviously, the dichotomy made
between killing in the 'awaiyid, i.e., intentional and accidental,
and the concomitant gradation in compensation points to some
kind of reasonable consideration in cases of killing.

156 Hajj 'Ali is discontent with yet another aspect of
159 the traditional authority structure. He questions the logic
554 and authority represented in the oath as a sacred sanction.
• 695 This says something about the degree of secularization which
829 Hajj 'Ali has undergone. Although he does not say so, he
apparently favors a more secular and logical procedure for
determining a man's guilt or innocence.

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Another thing which I do not like about our old ways is the idea of swearing the oath. For instance, if I steal 1,000 L.E. from you, then you will accuse me. The 'aqila will then come to me and say: "If you did not steal the money, swear the oath." Some of my family will support me in this, swearing that I did not steal the money. The swearing of the oath will take place at a tomb, in the presence of the Quran. This tomb belongs to a dead man, and they tell you that he is a saint. First of all, the thief will swear the oath and then they will believe him; and, secondly, what is the sense of swearing in front of a dead body?

[784] Hajj 'Ali made no mention of God or of the Bedouin belief that misfortune will be visited upon the one who swears the oath in bad faith. There is an Arabic proverb which Hajj 'Ali repeated here which says in effect that "the thief will always swear."

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Hajj 'Ali actively challenges the traditional basis of the Bedouin moral and political community. Striving to do away with prescribed cousin-right in marriage and the mechanisms of blood-revenge and the oath as means of supporting law and order in al-Qasr is a course which we might expect from an Egyptian official who seeks to integrate the Bedouins into national society. And, in fact, these are all customs which the Governor believes must eventually be eradicated. It is not surprising that Hajj 'Ali's son believes that "it is not civilized" to lay claim to his cousin for, like his father, he also is redefining morality vis a vis "civilization."

It appears obvious in all that he says, including his comments at the Governor's reception, that Hajj 'Ali has

The form which the process of dispute settlement takes differs from one society to another. In certain societies disputes are settled through a process of informal mediation undertaken by go-betweens; in others it is by means of self-help; still in others, it is by way of court. In societies with courts the process of dispute settlements is undertaken by judges who "take and assess the evidence, examine what they regard as the facts, and come to a decision in favor of one party rather than another" (Gluckman 1965:183).

Within a given society, disputes are settled in accordance with a set of principles that reflect the basic goals and values of that society. As long as the settlement of a particular dispute proceeds according to these principles, the settlement is supported by the public opinion of that society. This is true whether the process is carried on b y means of informal mediations or through a court system. It is this public opinion as the expression of the basic societal values and not the court as a special mechanism that gives legitimation to the judicial decisions. To equate opinion with the court as Hoebel (1961) did, or to look at the court as the ultimate source of legitimation as did Radcliffe-Brown (1940) and others (Redfield 1964, Bohannan 1965), is to create an unnecessary confusion which tends to undermine meaningful cross-cultural comparisons. Whatever the differences among anthropologists with regard to the definition of the court, their main interest in the concept so far has been as a tool for the definition of law. The interest in the concept gave rise to a methodological approach which came to characterize the literature in legal anthropology, namely, the case-study approach, cases having been utilized in a number of ways by legal anthropologists. In their book on the Cheyenne, Llewellyn and Hoebel (1941) introduced the analysis of "the trouble case." This was followed by a number of studies utilizing the case study method either to

613 675 539 Article 9:

The Amar should never fight on the side of the wrongdoer, because if it does, it will have to pay with him for his wrongdoings.

Article 10:

[628] Any dispute or fight involving a member of the Amar and an outsider should be reported to the awaqil in the Amar who are supposed to take the matter up with the other party. If the awaqil are convinced that the outsider is the aggressor or that he is at fault, they should try to make him accede to the demands of the members of the Amar, using all their efforts to convince him and the aqila of his bait. If he refuses, they [619] should call him for a "Miad" (tribal meeting) in which all parties involved should be represented by their respective awaqil.

Article 11:

[563] With regard to "iktitab" (tribal adoption), an outsider wanting to join the Aggary Family or one of its constiuent buite must be asked first [619] about the reason or reasons for his desire to join. This must be done in order to know what kind of person he is and whether he will become a burden and liability to the Amar. If he proves to be of reputable standing, the aqila of the bait he wants to join can accept him without consultation with the rest of the awaqil. If on the other hand he is found to have grudges against someone or if someone has a financial claim over him, then the aqila of the bait cannot accept him without consultation with the other awaqil in the Amar. If all the awaqil agree to accept him, he is considered like one of the Eilat Aggary, having the same rights and bearing the same responsibilities.

Article 12:

A memberof the Amar who wants to separate himself from the Amar and get a "barawa" has to state his reasons beforehe can be released from the obligations of his membership in the amar. If his request to get the barawa was because of injustice he suffered by the Amar or any of its members, the awaqil have the duty to straighten the injustice and restore his rights. If, on the other hand, his request for the barawa was to avoid paying the Amar, then he cannot be released from his membership unless he pays all of his share, or else he must return all that the Amar has paid him until the time he asked for the barawa.

Article 13:

[695] If one of the Amar is accused of an offense for which he is tried by the legal system of the state, the Amar as a whole share the expenses of [693] hiring an attorney to defend him. This, however, is done after the awaqil are sure (by means of administering the oath) that he is innocent and that the accusation is false.

613 671 675 682 first appeared, the rule has become a practice so common that other Amars find it unnecessary to specify it in their own papers.

Another new rule which is in the process of acquiring a great amount 613 672 675 [693] of consensus among the tribal population of Awlad Ali is that of the responsibility of the Amar for the payment of the lawyer's fees for members of the Amar who are tried by the government (Article 13 of the Aggary [695] papers). Another less agreed upon rule is that of the responsibility of 613 672 675 439 [434] the Amar for the financial losses caused by the confiscation of smuggled goods or the payment of money for the destruction of government property by a member of the Amar. Where smuggling is an important source of income for the group, Amar papers usually include rules making it a corporate responsibility; other Amar papers, especially those of tribal segments not deeply involved in smuggling, make it an individual responsibility, while still others leave it intentionally with no specific rule, as in the case of the Aggary Amar paper.

613 [675] [131] The Aggary document is a relatively elaborate one. Not all Amar papers, or at least the ones I had a chance to examine, are as detailed. Eilat Aggary is the largest Amar in the area of Dera'el Bahari, which extends from Alexandria 60 miles westward to the town of Alamein. The 613 563 619 distinctive characteristics of the Aggary Eila is that it is composed mainly of peasant groups who joined the Aggary by means of tribal adoption. Of the 16 Baits constituting the Aggary Amar, only three are believed to be Awlad Ali proper. The attractiveness of the Aggary for the peasant groups seeking to be adopted by the tribal population of the area may be partly explained in terms of the location of Eilat Aggary in an area relatively close to the Delta from where these groups usually migrate.

685 627 578 grudges that he had against Ta'ib when the latter dissolved the partnership which had existed between them for more than ten years, because of Rabbu's attempt to cheat Taieb in dividing the profit gained from smuggling goods. They asked Sheikh Ta'ib to be their mediator to Sheikh Hakim and his son. Ta'ib went to Hakim himself and informed him of the accusations directed against his son and asked to arrange for a "Mi'ad" or legal hearing. Hakim agreed and told Taieb that his son accepted Taieb as a mardi and would abide by whatever decision he made. After that both parties to the dispute wrote specifying their agreement on Taieb as a mardi and all signed it. (It is not customary to write the agreement on the mardi but Taieb insisted on that on the grounds that he did not trust Hakim or his son and that several times they had backed down on their promises). The Mi'ad was held and all interested parties attended. It lasted only half an hour, most of it spect drinking tea. Nobody presented his case or any facts related to it since both parties had apparently discussed it earlier with Taieb. The only one to speak was Sheikh Taieb. He stated that Hadi and his partners believed that Rabbu had informed the police which caused them to loose merchandise worth more than three thousand pounds. He also said that the accusation had been denied by Hakim on behalf of his son, after having his son swear by the Qoraan that he hadn't informed the police. Then in the traditional phrase, Taieb said, "I therefore follow the Awlad Ali Darnieb and make the judgment to the oath. Rabbu will have to take the oath supported by fourteen male members of his bait to be selected by the Geneishat." He added that he had discussed the matter with both parties before announcing it and that both had agreed to it.

685 627 578 695 [671]

685 627 798 695 [671] [776] The Geneishat selected the tomb of the saint, where the oath was to be administered. According to the customary law of Awlad Ali, the plaintiff is the one to decide which saint is to be sought for the taking of the oath by the defendant. Each saint has his own reputation and some are said to be more effective in certain kinds of disputes. The saint selected in this case was Sidi Dmain. Sidi Dmian's tomb is in the Beheira province some 60 miles east of the area of Burg el-Arab. He is [732] [784] known to cause the blindness of those who dare to swear falsely by him, and at least four cases of blindness in the area have been attributed to [671] false oaths at Sidi Dmain. Also according to the law, it is the plaintiff who selects the persons from the defendant's kin unit who are to 685 627 695 613 [803] support him in the oath. Following this rule, the Geneishat, with the help of Hadi, selected the fourteen men from bait Asabei to swear with Rabbu. The number of men that were required in this case was considered very conservative. The usual practice in estimating the number of supporters in any case is done by establishing the value of the damage or compensation and dividing it by ten. The result is the number of men needed to give the oath. If there were not enough adult males in a given kinship unit to fulfill the number needed, some or all the men would have to be sworn twice or three times and each time a person takes the oath he is considered as a separate person until the number needed is met.

Following this rule, and since the value of the property confiscated in the above case was over three thousand pounds, 300 persons should have been sworn in support of Rabbuh. Since this would have complicated the matter greatly, it was agreed that fifteen men were enough. Taieb gave the justification for limiting the number to 15 that trade and, as

685 such, deviates from the normal pattern of cases dealt with by the cus-
627 tomary law in the conventional way. The men selected by the Geneishat
695 included, in addition to Rabbu and his father Hakim, Shei'eb and his
613 three brothers, Hakim's cousin Samsoun and his four brothers and Hakim's uncle Sheikh Qudura and his sons. The date of the oath was set for June tenth. Two days before, the two parties involved in the dispute invited a number of the important people of other tribal segments in the area to
[492] be witnesses to the oath. All involved started to travel to the tomb of
[494] Sidi Dnain, some on donkeys, others by bus or train. At six o'clock on
[497] the morning of the oath everybody gathered in the courtyard outside the
[778] tomb of the saint. The granddaughter of the saint works as a mediator
[787] between the spirit of her grandfather and his followers announced that
[776] the saint was ready for the oath and everybody went inside preparing for the oath. Before the oath was taken the Geneishat asked Hakim if his son and the fourteen men they had chosen were present and Hakim said they were. Since the Geneishat were from a different tribal segment and lived outside the area, they had no personal knowledge of most of the
[212] men who were to take the oath. Knowing the reputation of Hakim they asked the men to present their identification cards to check them against
[749] the list they had. At that time Hakim said that some of the men didn't have identification cards because they had not applied for aid from the World Food Program. Then the Geneishat demanded that those without cards should be identified by members of other tribal segments who had come as witnesses. Hakim refused and then admitted that one of the men was absent and that he had put another in place of him. But when the Geneishat learned that the one to be absent was Sheikh Qudura, they insisted that

685 no one else could take his place. They were mainly angry at Hakim's
627 attempt to cheat them and refused Hakim's offer to substitute ten men
695 for Qudura. The temper of the meeting was becoming very tense; then
613 [578] Taieb, who was working very hard to achieve a settlement between the disputants, took the Geneishat aside and tried to convince them to accept another man instead of Qudura. When he found that to be impossible, he asked them to agree to a postponement of the oath until they saw what prevented Qudura from coming as he had promised. The Geneishat agreed to the postponement because of the absence of one of the men to swear. [671] According to Awlad Ali Daraieb, if one of the individuals to take the oath fails to show up in the saint's tomb for any reason or if he comes but refuses to take the oath, the whole case for the defense fails, and the judgment is awarded automatically for the plaintiff. In this case the Geneishat were entitled to immediate compensation for their confiscated goods. Nobody knew the reason that led the Geneishat to forfeit their right to immediate compensation and to give Hakim and his son a second chance despite their intense dislike for the latters. Some attribute this to the skill of Taieb and the respect he commands among all tribes. Others believe the Geneishat movement to be a reciprocal act to bait Asabei' as a whole which long ago had one a similar favor for the Geneishat. Still others beliebe it to be a gesture of good will on the part of the Geneishat who needed to retain a good and friendly relationship with the tribal segments on their smuggling route.

No date was set at that time for the oath. The parties as well as
685 the witnesses returned to their houses. Hakim then took Shei'eb and
627 went to visit Qudura to see why he hadn't come to the oath but Qudura
578

613 was set for a meeting in which Quadra was to announce his decision.
156 Meanwhile, Qudura stopped attacking Hakim and directed his attack to-
554 ward the inadequacy of Shei'eb as the Aqila.
578

The meeting was held two weeks later and all the important people in the area were invited. After dinner was served Qudura announced his agreement with Hakim to become the Aqila of bait Asabei' replacing Shei'eb. Everybody expected Hakim to support Qudura in his claim, but instead Hakim directed his comment to Qudura telling him that there had been a misunderstanding on Qudura's part and that all his message to Qudura was to acknowledge the latter as the Aqila for his own camp alone not for bait Asabei' as a whole as Qudura claimed. This announcement was a surprise to everyone in the meeting since this meant recognizing the camp of Qudura as a separate bait, a result which nobody, including Qudura, had ever anticipated. Qudura was very angry and dissolved the meeting immediately. Ever since that incident, the relationship between
578 Qudura and Hakim has been very unfriendly. Almost all of my informants
156 explained Qudura's failure to show up at the oath as a means of revenge
• 695 against Hakim who had embarrassed him among the people who attended the
685 meeting. Qudura himself had told me later that the reason for his not
[124] coming to the oath was that he was not sure that Rabbu was innocent:

> Rabbu has been known to do these thins (inform the police) and I cannot trust him. I cannot take a false oath and endanger myself for someone like Rabbuh. Besides, Hakim never came to me to discuss the oath like he did with all the others who were to swear with them. If he had brought his son and come to me before I would have been able to tell whether they were lying or not, and If not, I would have sworn with a clear conscience and without fear. The oath is something that one does not take lightly. It involves the supernatural.

613 When Qudura refused to see Hakim and Shei'eb, Hakim asked Sheikh
627 Saleh, the Aqila of one of the most powerful baits in the area, to talk
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682 owner of the rope, since it was the broken rope that had caused
672 the death of Do'ah. The case stayed unsolved for more than two months, a record for dispatching of criminal cases in the area.

682 In the final Mi'ad, the main question was whether or not the owner
672 of the rope was responsible for the death of Do'ah, and therefore
627 liable for the payment of the bloodmoney. After extensive negotiations with the parties involved, Sheikh Selouma, the aqila of Hemeida's Bait, who had also been accepted by Do'ah's family as the Mardi in the case, convened the Mi'ad and announced the settle-

682 ment. His announcement came after reading certain passages of the
672 Koran and reminding the parties that they were all members of Awlad
627 Ali and therefore brothers. He stressed the necessity of all bro-
695 thers having clear hearts toward one another and not allowing worldly disputes to leave any impurities among friends. He then came to the conclusion that there were two things responsible for the death of Do'ah. The first was Hemeida's decision to clear the well, for had it not been for that decision, the accident would not have happened. The second thing responsible was the rope whose breaking was the direct cause of the death. The responsibility here applies only to the rope and not to the owner of that rope. The reason Sheikh Selouma gave for not holding the owner responsible for the death of Do'ah was that the rope by itself is not a lethal weapon for which the owner has to exercise a great deal of caution in lending it. To make the owner responsible for the death of Do'ah would, according to Sheikh Selouma, discourage anyone from lending anything to his neighbor for fear of becoming liable for any harm it might cause.

682 "...It means that I will never lend my cooking pot to my neighbor
672 lest his child trip over it and I would be asked to pay his blood-
627
695 money."

So, the bloodmoney was divided into two sections, one to be paid by Hemeida, and the other to be the responsibility of the rope, which meant that the victim's relatives only took home half of the bloodmoney.

683 CASE #2: The Case of the Curious Neighbor

682 This is the case of 66-year-old Selouma whose barley land
578 bordered that of Muftah, a distant member of the same tribe. A
672 small area of rocky land separated the two areas. Throughout the time that Muftah was preparing his land for barley cultivation, Selouma used to sit on the dividing rocks, observing his neighbor work on his land and making jokes about the amount of time and effort Muftah was putting into his land, especially when it looked like a dry year, anyway, and no barley would be cultivated. For more than a week Muftah tolerated his neighbor's remarks. "I always said to myself, 'Don't follow the devil... He is an old man and doesn't know what he is saying.' But that day I could not take it any longer. My wife and children were sick, and I didn't have any money to bring them medicine or even food. I wanted to finish preparing the land because it looked like it was going to rain that day. I went to the area I was working on when Selouma started his jokes. I was mad. I took a small stone and threw it at him to scare him and make him stop. The stone hit his leg. It was a small stone, and I didn't think it would harm him. Actually, he stood on his

683
682 feet after that and left." It seems that later the wound got in-
672 fected. Six months after the incident, Selouma was taken to the
[578] hospital with an infected wound, and three days later he died from that infection. Selouma's son, Ali, demanded that Muftah pay a full bloodmoney (L.E. 400) for the death of his father, since the death was directly caused by the wound inflicted by Muftah. Muftah denied the charges and claimed that the infected wound which caused
683 the death of Selouma was not the one inflicted by the stone. Media-
682 tions continued for some time, and when no agreement was achieved,
672 the aqilas of the two baits to which the parties belonged declared
695 that the decision should be made by the oath which Muftah had to
613 take if he insisted on his claims that the wound was not caused by his action. Since the case involved the life of a man, Muftah had to be supported in his oath by fifty-five adult male members of
[671] his 'amar, or 'eila. In accordance with the Daraieb, the selection
[778] was done by members of Selouma's Bait who also selected the tomb of the saint where the oath would be undertaken. On the date the oath was to be taken, the disputing parties, as well as all the notables of friendly tribal segments who were invited to witness the oath, went to the tomb of the saint. As they started with the procedures,
[784] two of Muftah's cousins who were to support him in the oath and his uncle refused to swear on the grounds that they were not sure that Muftah was telling the truth and therefore could not subject themselves to the supernatural hazards of taking a false oath. Attempts by other members who were to support Muftah were made to force the three men to swear, since their refusal meant that the bloodmoney

683 was to be paid unconditionally and consequently would cost all
682 members of the amar; but all these attempts failed. At this point,
672 there was no doubt on the part of the attending crowd about Muftah's
695 responsibility for the death of Selouma. The question was, how much
613 had he to pay. The amount requested by Selouma's son was that for "intentional" killing on the basis that Muftah had willfully thrown the rock knowing that it might harm Selouma, especially considering his age.

683 After long and intensive negotiations with the interested
682 parties, a Mi'ad was set in which it was announced that Muftah had
672 to pay the amount of L.E. 200. In his reasoning, he stipulated
629 that the wound which had caused the death of Selouma, although it was intentional on the part of Muftah, was inflicted by a stone which in itself is not a lethal weapon, and therefore the death was an unintentional one for which the bloodmoney is customarily estimated at L.E. 300. He also stated that in the excitement that
[845] followed the death of Selouma, Muftah's pregnant wife had lost the child. The bloodmoney for the still-born infant was estimated at L.E. 100, which was deducted from the amount of bloodmoney that Muftah had to pay.

CASE #3: The Case of the Trespasser

311 This case occurred during the year of the fieldwork which was
423 the second dry year the area experienced. Rain had not fallen ex-
613 cept in a very few places. One of these places was near the small
[132] town of Sidi Barrani in which the land belonging to Yadem and his Bait was found. Yadem had sown his barley which at that time had grown to about five feet high. Surrounding the cultivated land

233 animals to drink, sat on the edge of the well with his feet in the cool water of the pool completely absorbed in his thoughts amidst the quiet surroundings. Passing by the pool at that time was Mahdi 233 576 from a neighboring tribal segment. Seeing Idris (whom he had not 165 known), he shouted the customary greeting, "Peace on you." Startled by the voice of Mahdi, Idris lost his balance and fell in the deep water of the pool. Mahdi rushed to help him, but the water was too deep, and Idris drowned. Feeling sorry for Idris, Mahdi took the flock and went back to the camp of Idris where he informed the latter's wife of what had happened. A few days later, Mahdi was 682 627 paid a visit by Sheikh Elewa, the aqila of Bait Asabei' and known [613] mardi in the area who informed Mahdi that the family of Idris was demanding the payment of the sum of L.E. 300 for the death of their 682 relative. A Mi'ad was set for the following week. In that Mi'ad, 627 and after Mahdi admitted that it was his greeting that had startled 672 Idris and caused him to fall in the well, the two Mardis represent- 613 ing the two parties agreed that the payment of the sum of three hundred pounds was in order and that Mahdi and his amar must pay it to the victim's family as soon as possible. At first, Mahdi seemed to accept the judgment of the two Mardis, especially when both were prominant members of some of the influential tribal segments in the area. But Mahdi was a poor man, and his amar was very small in number, which made the payment of the bloodmoney almost impossible. 682 Although appeal in the ordinary legal sense does not exist in such 629 a system like that of Awlad Ali, where no judgment is forced upon 672 any of the disputing parties, and where the pronouncement of the • 695

One informant once told me,
124 "If you don't greet me, this means that you hate me, and if you
576 hate me, there is no limit to the kind of harm you can do me and
829 my family. One who hates you can kill you, and none can walk safely anywhere if he fears that he will be killed."

682 As Sheikh Suliman and Mahdi reached the general store, every-
689 one was gathering there as usual, including the two awaqil who
672 were involved in the original settlement. Sheikh Suliman told
695 Mahdi not to dismount his donkey and not to say the customary
554 greeting as they passed by the gathering. When they passed the
792 gathering, everyone stood to greet Sheikh Suliman who ignored them
576 and left with Mahdi. No one believed that Sheikh Suliman, who should be the guard of the tribal tradition, should commit such an unforgivable violation of the norms of the people. The next morn-
682 ing the whole area was talking about a big Mi'ad to "take the right"
689 from Sheikh Suliman and Mahdi, who had insulted the gathering. The
672 Mi'ad was held a week after the incident. During the Mi'ad, Sheikh
695 Suliman was asked to explain his behavior, and his answer was, "How
554 do you want me to greet all those people who were sitting in front
792 of the store? There were more than thirty men in that gathering,
576 and I was afraid that if I said the customary greeting, I might
627 have startled some of them causing them to harm themselves, leaving me with the payment of so many bloodmoneys." Immediately, the attendants of the Mi'ad knew what Sheikh Suliman was referring to, and that his action was to prove that the settlement reached in the case of Mahdi was wrong and that it set a very dangerous precedent which would cause people to avoid greeting one another, "and hatred will prevail among brothers and nobody will be safe in his own home."

000 own home." The following morning a Mi'ad was called for by the two
627 aqila who achieved the first settlement, and in it, Mahdi was re-
613 leased from his obligation to pay the bloodmoney, although he was
682 asked to pay the sum of fifty pounds to the widow of the deceased
675 as a gesture of friendship.

CASE #6: The Case of the Careless Guest

574 The present case involved Ali from the Geneishat tribe who
682 lives in the desert town of Matruh where he has a general store. He goes on frequent visits to Alexandria to get supplies for his store. On one of these trips he passed by the camp of 'Awad from a different tribal segment. Hungry and tired, Ali decided to spend the night at the camp and continue his trip the following morning. He went to the first tent in the camp which happened to be that of 'Awad, who welcomed him and ordered his wife to prepare dinner for the guest. He then invited other members of the camp to have tea with the guest as a gesture of hospitality. When Ali sat down to eat, he took off his shoes, and put his rifle against a pile of rugs and blankets behind him. As the group was chatting, a goat belonging to one of the invited neighbors entered the tent where the men were sitting. Afraid that it might soil the carpets which he had put out for the guest, Awad chased the goat out of the tent. On its way out, the goat touched the guest's gun which fired, killing Hussein, the brother-in-law of one of the neighbors.

682 The local authorities were notified of the incident, but after
627 conducting a preliminary investigation, they filed the case as accidental death. The tribal proceedings continued, however. After

8: Kennett G-5 (ca. 1921) 1925 MT9 Libyan Bedouin MT9

CHAPTER VII

BLOODMONEY—WESTERN DESERT

000 Payment in Cash—Agreements to pay—Reprisals discouraged—Patricide—Detective Work—Death from Fright—Public Aversion—The twelve-year-old Bill—Informers—Ali Abu Bukr's Cistern—The Broken Rope—Found Drowned—Three Months' Hard Labour—Whose Rope?—Payment—The Old Man who fell off the Wall—The Clutches of the Police—A Well-conceived Lie—Ibrahim's Broken Leg—Ali's Cunning—The Fiasco at the Tomb—Reductions in Payment—The Dead Baby—Amateur Lawyers—The Two Shepherds and the Trespasser—Stick or Stone?—Legal Arguments—Travelling Allowance—Misappropriation—Chaos—Mirtah buys Sheep, while the Sayed buy Dates—The Clash—£300—Abdel Kerim and his Cousin—The Boys Fight—Result of pointing a Gun—Dirty Fingers—Serve him Right—The Two Married Sisters—A Gun Accident—Poor Towida—Successful Bluffing.

682 [171] [435] [562] IN the Western Desert the laws of bloodmoney differ considerably from those of Sinai, the former being of African origin and the latter of Arabian. The Western Bedouin regard the price of a man as £300, irrespective of the market price of a camel; and the value of a woman's life as normally £150, or half that of a man.

682 695 562 In the absence of satisfactory evidence in a case of murder, if the oath be employed to decide the issue, fifty men will swear for a man's life, and twenty-five in a case involving the life of a woman. (NOTE. In some tribes these numbers are increased to fifty-five and twenty-seven respectively.)

682 621 As regards the payment and acceptance of bloodmoney, this is almost invariably by agreement between the families, and it is often difficult for an outsider to see any rhyme or

8: Kennett G-5 (ca. 1921) 1925 MT9 Libyan Bedouin MT9

of the present defendant seemed—for a really wealthy man—to be pointless and futile. The merchant anticipated this objection by hastening to add that the receipt of the actual cash did not interest him in the least; but that he had been wondering how he could shew his disapproval of the defendant's family in some way, and had gone carefully through all his old papers and receipts with this end in view, and had triumphantly discovered the bill of debt now produced in court.

Bedouin Law and custom sometimes accept right to bloodmoney in all sorts of circumstances, when other law would recognise no claim. For example, the principle is accepted that a life lost in prison must be paid for by the informers whose information resulted in the imprisonment of the deceased. It is entirely immaterial whether the information so given to the police was wilfully false or intentionally misleading, or whether it was merely subsequently found to be incorrect. Even if the information had been true and correct in every detail, the informer is still blood-guilty from the Ourfi standpoint, although in actual practice any such claims for bloodmoney would probably be considerably modified.

Other claims for bloodmoney are also recognised occasionally, in cases of obvious accidental death, or death by misadventure or Act of God, when the interpreters of Bedouin Law cannot get away from the main principle that a life lost must be paid for. The difficulty in these cases is to determine who shall pay for it; and the lawsuits usually end in a clever compromise, in which their essential principles are duly observed, but their judgments are mitigated and modified by leniency and commonsense. The following example, which occurred recently in Mariut, will illustrate this.

A certain Arab called Ali Abu Bukr had inherited from his father large cultivation rights in the desert; and in the middle of this land was an old cistern for the collection of rain water. It had not been used for years, and was silted

8: Kennett G-5 (ca. 1921) 1925 MT9 Libyan Bedouin MT9

in the case, and produced this document signed by Ibrahim's family to the effect that Ibrahim *fell* off the wall and broke his leg. How then could he possibly be implicated in the case?

The assessors of the court went carefully into all the evidence and eventually agreed that the matter should be decided by the oath. They demanded that Ali, backed by twenty-five men of his own tribe, chosen by Ibrahim's family as men of their word, should swear on the tomb of Sidi Shar el Ruh the following oath: "By Allah the Great and by the Truth of this Holy Sheikh, I swear that I neither threw a stone at Ibrahim, nor broke his leg." They further decreed that if Ali himself, or any one of the twenty-five men chosen to back him in his oath, failed or refused to swear as required, the case for the defence would be null and void, and that bloodmoney would be required in full from Ali's family.

On the date appointed two or three sheikhs of the court were detailed to go to the tomb, to meet the defendant with his twenty-five backers, and to supervise the taking of the oath. The parties duly arrived; but when the oath was just about to be taken, three men of Ali's backers refused to swear, declaring that on the contrary they were ready to swear, if required, that Ali *had* thrown the stone, and was responsible for Ibrahim's death. The case for the defence thus fell to the ground, and the parties were warned to appear at a future date, when the case would be completed. At the next meeting of the court, Ali's liability to pay bloodmoney was accepted in principle, but there were divergencies of opinion as to the amount to be paid. Then followed a delightful example of casuistry typical of the Bedou mind.

The assessors of the court felt that, in the first instance, Ali had never intended to kill poor old Ibrahim, and that his crime fell very far short of intentional homicide. Also, it had happened seven years before, and, all said and done, time had healed most of whatever ill-feeling there ever

8: Kennett G-5 (ca. 1921) 1925 MT9 Libyan Bedouin MT9

had been. Besides, Ibrahim was an old man when it happened, and he would have to have died before very long in any case. Moreover, the sheikhs in their heart of hearts considerably admired the acumen displayed by Ali in getting hold of that document. So they decided privately among themselves that on the whole half the full blood-money, or £150, would meet the case. On no account, however, could they give in open court the above reasons for lessening the sum to be paid. They proceeded to listen patiently to more evidence, and eventually gave their considered judgment as follows:

"Defendant Ali is required to pay the full bloodmoney of £300. *But* in view of the fact that, when the police came to Ali's tent to arrest him seven years ago, in the excitement and commotion caused by the police patrol, Ali's wife gave birth to a premature boy child, and that this boy subsequently died, therefore the sum of £100 will be deducted from the total to be paid, for the sake of the dead baby. Also, as it cannot be proved conclusively that Ibrahim died simply and solely as the result of the stone thrown at his leg, and as it may be conceivably possible that other external causes contributed to his death, for this reason, therefore, another sum of £50 will be deducted. Hence the amount to be paid is £150, of which £50 must be paid after this coming barley harvest, with a similar sum after the two following harvests."

Amateur lawyers are not popular, and more often than not darken counsel without understanding.

An Arab called Salem had some land, and he employed two men of the Hawita tribe as shepherds and harvesters. One of these men was from the Nefoofa family of the Hawita, and the other was from a family called the Magai. These two shepherds worked peacefully together, and their respective families were friendly, until one day an Arab of the Gottaan tribe called Yadam Saadi drove his flocks and his animals on to Salem's land, and began to pitch his tents. These two shepherds saw this going on from afar, and

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682 672 came up to drive him and his animals away. Yadam refused to move, and threatened violence if they attempted to eject him forcibly. So the two shepherds, who were responsible to their employer for the land, went for him simultaneously—the Nefoofa shepherd with a thick stick, which he brought down with all his force on Yadam's head, and the Magai with a large stone, which he hurled as hard as he could, and which caught Yadam in the chest over the heart. Yadam received both these blows simultaneously, collapsed on to the ground in a crumpled heap, and died soon afterwards.

682 672 693 695 Yadam's family then brought an action against the Nefoofa and Magai families conjointly, claiming bloodmoney. The Nefoofa produced an amateur barrister of their own family called Abd el Gelil, who proved (entirely to his own satisfaction) that many minor assaults were continually taking place, when people were hit on the head without death following immediately as the result of the blow. He therefore contended that it must have been the blow from the stone thrown by the Magai which had really killed him. The Magai adopted a similar line of argument, and the case remained at a standstill for nearly two years.

Eventually the court effected a compromise, and awarded the bloodmoney, to be paid equally by the Nefoofa and the Magai in three yearly instalments of £50 each. The Magai paid up their £50, and the Nefoofa barrister—a particularly bumptious individual from the Nile Valley—lodged a protest against the decision, claiming that the court was not properly constituted and was not competent, that the sheikhs were biassed, and a hundred and one reasons why the Nefoofa should not contribute their share.

He was eventually made to understand that the Nefoofa would have to pay, and that if there were any more trouble from him, his own property would be seized as part-payment. Accordingly Abd el Gelil travelled round the Nefoofa encampments, ostensibly to collect sums due from

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the different families. A year later the Gottaan brought up the case again, acknowledging the receipt of £50 from the Magai, but protesting that they had still not received anything from the Nefoofa. On an enquiry being held, a representative collection of infuriated members of the Nefoofa family came to court, protesting that Abd el Gelil had already collected their payments, and that if he had not handed over the money, their responsibility at any rate had ended for the moment.

It subsequently transpired, when Abd el Gelil was with difficulty got hold of and brought to court, that he had collected about £50, but claimed this sum as his own personal travelling expenses for collection. Then followed another lawsuit, in which the Nefoofa family sued their self-appointed lawyer for mis-appropriation of tribal funds. The details of this new case, and those of the original suit, were then re-capitulated and muddled up together, to the complete bewilderment of the writer and the entire satisfaction of the Bedouin assessors.

Mention has been made of the extra £100 (£400 instead of £300) usually paid among the Gawabees tribe as the price of a life. It seems, however, as though there are exceptions to this rule; and the following case seems to shew that the payment of "Sanaa" depends on a variety of circumstances.

A family called Sirdani had had a bloodfeud with another family of the Gawabees called Sayed, one of the former having killed one of the latter some fifty years ago. The two families had been living in totally different districts, and for years had not come into contact with each other, and so the feud had been allowed to continue.

In the spring of 1921 a man of the first family, about forty-five years old, called Mirtah el Sirdani, left the Wadi Natrun for the Nile Valley to buy some sheep from the Fellaheen, taking with him his old mother and a small boy, to help him bring them back across the desert to the luscious grazing in the wadi swamps. He arrived at the

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233 685 [578] wandered over the boundary of Abd el Salam's grazing rights. The juvenile members of Abd el Salam's family came out from their tents in a body, to drive off their intruding second cousins with their camels. An altercation ensued, and the excitement grew; and eventually a pitched battle with sticks and stones began among the lads.

683 One of Abd el Kerim's sons, leaving his brother to hold on for a moment, ran back the half mile to call his father, who returned with him to the scene of the fight carrying his gun. On arrival at the camels, Abd el Salam's sons set on him in a body. Abd el Kerim pointed his gun at one of them and took aim; whereupon one of the other family from behind laid him low with a blow on the top of his head, sufficient to fell an ox.

[114] Abd el Kerim was carried back to his tent, where the writer witnessed the horrible sight of sympathetic but homicidal relatives pawing his open wound with their filthy fingers. A large hole had been knocked in the side of his head, and portions of brain were visible. After some [694] months of surgical treatment Abd el Kerim came out of hospital; and, as the blow was reported to have affected his reason, a case was brought on his behalf by some of his relatives, claiming damages from the family of Abd el Salam. However, before the case was fully completed, [682] Abd el Kerim was taken ill, was re-admitted to hospital, and died. The case therefore became one of bloodmoney, and was dealt with in the usual way.

683 682 695 672 The interesting point about the case, however, lies in the decision of the court, when the first claim for damages was brought up. A very strong line was adopted by the sheikhs, and in the opinion of the court the wounds received by Abd el Kerim were only what he might reasonably expect. They maintained that, after the way in which he had behaved, he was lucky to have got off as lightly as he did. The sheikhs protested that he ought never to have gone out from his tent, and mixed himself up in a fight between a lot of boys. If he had any authority at all, he

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should have called a meeting with Abd el Salam, discussed the position sensibly with him, and then the two of them should have beaten all the boys soundly. Secondly, he ought never to have taken his gun with him, which was as stupid as it was dangerous. The fact that Abd el Kerim himself knew that it was not loaded made not the slightest difference to the case, as the boys did not, and could not, know whether it was loaded or not. As one of the sheikhs expressed it, "If you point a gun at me, loaded or unloaded, I'm not going to risk it. So if I retaliate by braining you, then that's your fault—not mine!"

As compared with some of the customs obtaining among the Sinai Arabs, the following case among the Aulad Ali in the Western Desert is illuminating, and will be quoted in full. The question of who is "chief mourner" of the deceased, and who draws the largest share in a bloodmoney case varies considerably between the tribes of Arab and Berber origin. Among the Aulad Ali a woman killed is automatically half the value of a man, whereas among the Arabs the value of a woman depends on a variety of conditions.

A man called Idris had two daughters, Towida and Beida. Beida married a man called Korayem Shushan of the Gereidat tribe, and Towida married Farag Gueida of the Mowalik tribe. A son had been born to Towida and Farag called Lataif Farag; and when Lataif was about four years old, his parents quarrelled about some trifling matter, and Farag divorced Towida. Two months after this, Towida went to spend a day or two with her sister Beida and Korayem, and it was while sitting alone in their tent that the accident happened which was the cause of this lawsuit. It seems that Korayem had left a loaded gun tied up with cord to the roof of the tent, suspended from the poles. While Towida was sitting there, a sudden gust of wind got up, and shook the tent violently. As the tent rocked in the wind, the gun came tumbling down on to a wooden chest between the poles; the impact fired the

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682 charge, which hit Towida at a range of only a few feet,
672 with fatal results.

Farag, who had divorced her two months before,
682 brought a claim for bloodmoney from Korayem; but when
672 the case was heard, Korayem denied that the accident had
• 695 happened in his tent. The assessors of this first court, which was held soon after the accident, demanded that Korayem should swear, backed by twenty-five men (i.e. half the full number of fifty, as Towida was a woman), that the accident did not take place in his tent. Then
[671] followed an example of one of the very unsatisfactory points in Bedouin Law.

Korayem, who was a powerful man belonging to the Gereidat, who were in turn a powerful family, managed to persuade the court to cancel their judgment requiring the oath from himself and his twenty-five backers, and to agree to a settlement whereby he should pay £10 and be absolved from the necessity of taking the oath. The court accepted this agreement, and proceeded to examine the claims to the bloodmoney.

682 The Moslem Law of Divorce provides that when a man
672 divorces his wife, the decree does not become absolute for
695 three months, in order that it may be ascertained whether
671 the woman be pregnant by her lately divorced husband.
586 Towida had only been divorced two months before the accident; so the question had to be decided whether Farag were legally her husband or not at the time of her death, for purposes of receiving a share of the bloodmoney. If so, he should receive one quarter; but there seems to have been some difference of opinion on this point among the assessors of the court, and the whole matter was shelved.

682 Seventeen years afterwards, Laṭaif Farag—then a man
672 of twenty-one—re-opened the case, claiming his mother's
695 bloodmoney. In support of his claim he produced three
694 witnesses. The first was Farag himself, who was prepared to swear that he had seen Towida lying dead in the tent of Korayem. The second was Towida's brother, who was

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prepared to swear that he had been called in; and had seen his sister dying in a pool of blood in Korayem's tent. The third was a stranger who had been passing at the time of the accident, had heard the shot, had gone into Korayem's tent, and had seen Towida lying on the floor in a dying condition. The newly-constituted court probed this evidence, without actually demanding the oath from these three witnesses, and arrived at the following conclusions:

1. That the facts of the case were common knowledge, and were as Lataif claimed.
2. That Korayem never really intended to swear that the accident did *not* happen in his tent, but had succeeded in bluffing the previous Court. This was made possible by the fact that Korayem's family were strong, and Farag's were weak.
3. That half the price of a man—i.e. £150—should be the bloodmoney in this case, provided that Farag could produce satisfactory evidence on oath that:
   (*a*) the gun belonged to Korayem,
   (*b*) the accident took place in Korayem's tent.
4. In the event of these conditions being met, Lataif Farag should receive five-sixths of the £150; and, provided that they swore the above oath backed by four others, Towida's father and mother (if alive) should receive the remaining one-sixth.

Generally speaking, this judgment appeals to an outside observer as eminently sensible and just; and if only the matter had been left at that, and the judgment had been enforced, all would have been well. Unfortunately, however, various influences again crept in to interfere with the decision of this second court. The accident had then happened about eighteen years before; the first court had been bluffed by Korayem; after an interval of seventeen years the second court gave their very reasonable judgment; and then for some reason unexplained the case was again shelved, and the judgment not executed. For the third

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682 time the case was re-opened, after a further interval of some
672 years since the second judgment. By this time nearly all
• 695 the assessors and witnesses of the first Court were dead,
694 rumours had been spread that the gun belonged to a stranger who had left his gun in Korayem's tent, and should therefore pay his share of the bloodmoney, and so on.

The Gereidat family again succeeded in confusing the case, and in prejudicing the issue in their favour; and the third court gave the following decision, to the disgust of interested followers of this rather remarkable lawsuit. They decided that no evidence existed to shew what happened in Korayem's tent, and that no oath was necessary, maintaining that in the absence of any proof whatsoever Farag had no claim. They further ordered a new distribution of the reduced scale of bloodmoney proposed, whereupon the proceedings became completely involved and absolutely unintelligible.

682 The above events point out unmistakably the weak
672 spots in the Ourfi system. Korayem's family were strong,
695 and on two occasions were successful in evading just decisions against them; while the weak family with a strong case had to see justice perverted.

695 When the considered judgment of an Ourfi Court
182 receives authority for prompt and immediate execution
648 from the Government and the police, the Ourfi system is probably the nearest possible approach to the ideal, consistent with the conditions prevailing. But it is an undeniable fact, which must be faced, that without the moral backing of the Civil Power behind the judgments of the Bedouin Courts, miscarriages of justice are possible, and do actually take place.